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SUBJECT: SPANISH JUDGE INDICTS 40 RWANDAN OFFICERS

Classified By: Ambassador Michael R. Arietti, reason 1.4 (B/D)

¶1. (U) Summary. A Spanish judge's indictment of 40 Rwandan military officers for mass killings has been viewed with measured skepticism by the Rwandan government, which awaits receipt and evaluation of the judicial documents. Media versions of the judge's statements suggest that outlandish and seriously flawed accounts of the actual events of the 1994 genocide and its aftermath had been presented in some manner to the judge. Accounts of serious abuses do exist, however; the ICTR in Arusha has been quietly investigating several incidents for some time now. End summary.

¶2. (U) Spanish judge Adreas Solaro has apparently issued arrest warrants for forty Rwandan military officers, present and retired, accusing them in participation in mass killings before, during and after the 1994 genocide. The judge has issued his arrest warrants under Spain's "universal jurisdiction," which allows for prosecution for offenses that occur outside of Spanish territory. Some of the judge's judicial actions stem from the alleged killing of nine Spanish citizens in Rwanda, including four in October 1996 and three in January 1997 (however, please note: post has found a New York Times article dated January 20, 1997, attributing the killings of the three Spanish aid workers to "Hutu militiamen").

¶3. (U) In comments to the local and international press, Rwandan Justice Minister Tharcisse Karugarama responded to the indictments in measured tones, saying that the Government of Rwanda (GOR) had not been officially notified of the charges, and would react when duly informed. He expressed personal skepticism at the charges, suggesting that the arrest warrants were meant to tarnish Rwanda's image abroad. He also commented that the Spanish judge had been invited to visit Rwanda to further his investigation, but had declined to do so. Karugarama also noted that some of the alleged incidents concerned events that the Rwandan government had itself investigated, with individual members of the armed forces serving jail terms following their convictions by Rwandan courts.

¶4. (U) Among the 40 officers indicted are the Chief of Defense Staff James Kabarebe, Ambassador to India General Nyamwasa Kayumba, Army Chief of Staff General Charles Kayonga, Army PolAd General Jack Nziza, UNAMID Deputy Commander General Kerenzi Karake, and National Security Services Chief of External Security Lt. Colonel Joseph Nzabamwita, the first four of whom also figure on the French

Judge Bruguiere's list of nine indictees (for their alleged shoot-down of the President Habyarimana jet in April 1994). As Bruguiere had done, the Spanish judge apparently implicated President Kagame in the alleged killings, but did not indict him, citing head-of-state immunity.

¶15. (C) Mission has no English translation of the lengthy indictment, but offers the following brief comments on the most extensive version of the judge's charges we have seen, recorded in an AFP report of February 6. Some of the charges apparently concern revenge killings by the RPA/RDF (Rwanda Patriotic Army, the Kagame-led rebel force which triumphed in the 1994 genocide, and which is now legally constituted as the Rwandan Defense Forces) in the aftermath of the genocide, (the Rwandan Defense Forces) in the aftermath of the genocide, particularly during the vicious insurgency conducted in northwest Rwanda by the remnants of the Ex-FAR/Interahamwe based in eastern Congo in the mid-to-late 1990s. As noted above, the Justice Minister himself pointed out in his remarks to the press that abuses occurred and Rwandan soldiers were prosecuted for crimes they committed. Most observers agree that not all offenses by the RPA/RDF resulted in prosecutions.

¶16. (C) Other charges apparently made by the Spanish judge appear rather outlandish. For example, the Spanish judge supposedly states that the 1994 genocide was caused by RPA attacks on Hutu leaders -- who then decided to kill all Tutsis as a response, it seems. This turns the history of the genocide on its head, the well-documented story of extremist Hutu leadership planning and carrying out the genocide. Another charge the judge supposedly makes is that any massacres of Tutsis in the years leading up to the genocide were sparked by RPA killings of Hutu intellectual and political leaders -- again, turning history on its head, as the factual record is clear that massacre after massacre was perpetrated by extremist elements within the Habyarimana government, with the RPA trying desperately to capture territory and defeat the government. We also note that the judge apparently asserts that four million Rwandans were either executed or "disappeared" in the 1990s, most it seems at the hands of the Kagame "terror" regime in the years after the genocide. This figure is complete fantasy, but also widely bandied-about on extremist Rwandan-expatriate websites.

¶17. (C) Comment. Assuming press accounts of the indictment are accurate, the Rwandans will find a number of the judge's wilder charges easy to turn aside. However, serious accounts of abuses by RPA/RDF troops during the insurgency and their interventions in the Congo do exist. The GOR has acknowledged this itself, in pointing to its own prosecutions of abuses. The ICTR in Arusha has also been quietly investigating RPA revenge killings up to the end of 1994 -- the termination point for its mandate. End comment.

ARIETTI